

**Comments by the City of San José
on the June 22, 2018, En Banc on California Customer Choice**

July 11, 2018

The City of San José (San José) appreciates the opportunity to submit further comments to the California Public Utilities Commission (CPUC) in the wake of the June 22, 2018, en banc meeting on customer choice. San José supports the State's electric sector goals of affordability, reliability, decarbonization and equity and believes strongly in the need to accommodate and foster further rapid technological innovation. In addition, San José stresses the importance of accountability. San José, working through its community choice aggregation program, San José Clean Energy (SJCE) is poised to work with residents and businesses, other community choice aggregators (CCAs), the CPUC, the Investor Owned Utilities (IOUs), the California Energy Commission, the California Independent System Operator (CAISO), and other key stakeholders to further these objectives.

These comments provide a context for SJCE, and address issues raised by the CPUC at the June 26 en banc meeting and the CPUC's report on California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market (the draft Green Book). San José urges the CPUC to acknowledge the extensive positive contributions CCAs have made and are continuing to make towards achievement of the State's goals and work with CCAs to facilitate further progress:

- CCAs have supported or are supporting over \$2.5 billion in construction of California renewables, with the majority being built with project labor agreements.¹
- In Pacific Gas & Electric Company's (PG&E) service area, CCAs are offering cleaner base electric service to their customers that costs less than $\frac{3}{4}$ of the generation rate that PG&E charges its own customers.
 - In contrast, the regulated IOUs have electric supply portfolios that are 35-40% above market.² The IOUs estimate that above market costs are even higher, and report that from 2018 through 2041, uneconomic portfolio costs will total a staggering estimated \$49.68 billion.³
- CCAs are regularly meeting their resource adequacy and long-term contracting obligations.
- CCAs work closely with and are accountable to their local communities. CCA governing bodies must meet the desires and needs of all CCA customers from the most disadvantaged residents and businesses to the largest iconic customers, or risk losing customers, or having elected officials voted out of office.

¹ May 9, 2018. CalCCA letter to the Office of Governor Brown.

² April 2, 2018, CalCCA PCIA Opening Testimony at 1-1, CPUC Docket R.17-06-026.

³ June 1, 2018, CalCCA PCIA Opening Brief at 1, CPUC Docket R.17-06-026.

This track-record illustrates that CCAs should be viewed as valuable partners in achieving the State's objectives for the electric industry. As the State assesses whether, when and how additional competition should be introduced, the State should seek to ensure that any changes maintain the important momentum that CCAs have created.

In addition, the CPUC should continue to work with the CAISO, CCAs, the IOUs and all other industry stakeholders to reliably integrate an increasing proportion of renewables into the electric industry and to create a more robust and transparent market for capacity. These objectives are necessary because of the State's sustainability goals and not because of the expansion of CCAs. Nonetheless, CCAs are important partners in putting into place effective solutions.

Finally, CCAs require the CPUC's support to continue to transform the electric industry for the better. Important areas of focus include: transparency, nondiscriminatory distribution service and even-handed competition, and a fair and practical approach for the provider of last resort.

Background:

The City of San José is the tenth largest city in the country and the largest to embark on community choice aggregation through its San José Clean Energy (SJCE). SJCE is part of San José's dedication to sustainability leadership. In February of this year, San José's City Council unanimously adopted "Climate Smart San José" a concrete plan that incorporates fresh, new thinking on urban sustainability and uses the best data available to chart an economy wide strategy that is aligned with the decarbonization goals of the United's Nations Climate Change Paris Agreement.⁴ SJCE is one a several key mechanisms to accomplish San José's GHG-reduction goals.

Accountability:

SJCE is subject to San José's requirements for and commitments to transparency and accountability. City Council approved formation of SJCE in May of 2017, after extensive public comment and in response to community interest in the project. City Council approved the SJCE Implementation Plan and Statement of Intent for SJCE in August 2017, which included a guiding framework. City Council will continue to set policy for SJCE and will publicly review and approve programs, purchases, rates, and all critical aspects of SJCE. San José has created a Clean Energy Community Advisory Committee to provide regular community input to SJCE. SJCE staff regularly meet with potential SJCE customers and intend to undertake further extensive and ongoing outreach, in order to ascertain and meet the needs and priorities of SJCE customers.

- Like SJCE, CCAs are governed by boards or councils of elected officials. CCA decision making meetings are public and subject to the Brown Act.
- As in the case of SJCE, other CCAs were formed in response to advocacy by constituents. All CCAs must ascertain and meet the needs and aspirations of these constituents in order to succeed, retain their customers and remain in operation. Constituents and local elected

⁴ February 2018, Climate Smart San Jose available at <http://www.sanjoseca.gov/cssj>

officials are partly motivated to form CCAs to obtain more local and direct control over their electric service.

- CEC Commissioner Weisenmiller challenged CCAs to “put more skin in the game.” CCA decision makers are directly accountable to their customers who can easily vote them out of office if they are dissatisfied with their performance.⁵ CCA decision makers thus have more “skin in the game” than the IOUs, who are answerable to their shareholders rather than customers.

Affordability:

CCAs are offering electric service to their customers that is greener and less expensive than the service provided by the IOUs. CCAs are offering savings to their customers on the generation component of their electric rates. This is true even though CCA customers must pay nonbypassable charges that, in 2018 for PG&E, generally comprise a quarter or more of the generation component of unbundled rates. Because CCAs have sought to make their base service offering less expensive than the service offered by the IOUs taking into account the non-bypassable charges, this means that CCA power costs have to be less than $\frac{3}{4}$ of IOU power costs.

In contrast, the regulated system resulted in IOU electric supply portfolios that are 35-40% above market.⁶ The IOUs contend that the above market costs are even higher, and that the uneconomic portfolio costs will total a staggering estimated \$49.68 billion, with more than half of that amount forecast for PG&E’s service territory.⁷ Industry analysts have put forward varied explanations for this dramatic buildup. But the fact remains that California ratepayers have and will continue to shoulder these dramatic above market costs. And the IOUs appear to have little incentive to restructure and maximize the value of their portfolios in the face of changes in load, and technological advancements.

CCAs are following the development of additional retail competition and working closely with their customers to meet their customers’ needs. Because CCAs do not have stranded cost recovery, CCAs must be judicious about their pricing and put into place robust portfolios that include a prudent combination of short, medium, and long-term procurement. Factors that drive CCAs to offer competitively priced service include:

- CCAs must compete with their incumbent utility without the benefit of stranded cost recovery. While President Picker suggested that customers do not pay attention to their electric service, CCAs can and do expect significant increases in opt-out rates if customers experience a noticeable increase in their electricity bills. And, unlike the IOUs, CCAs

⁵ Cities regularly create enterprise departments or create Joint Powers Authorities and decline to place general funds at risk for services that can and should pay for themselves. This arrangement fosters sound business practices. These successful, well understood mechanisms are routinely used by cities to make available important and capital intensive services such as airports, water services, and transportation services.

⁶ April 2, 2018, CalCCA PCIA Opening Testimony at 1-1, CPUC Docket R.17-06-026.

⁷ June 1, 2018, CalCCA PCIA Opening Brief at 1, CPUC Docket R.17-06-026.

must comply with all State and local regulatory requirements and objectives while recovering the costs only from their own customers.

- CCAs must compete with other CCAs. Customers may not always read their electric bills but they do talk to their neighbors, fellow businesses, and competitors. In designing and pricing their programs, CCAs must be aware of programs offered in neighboring communities because community members will not be satisfied with service that is less valuable than the services available in a neighboring town. Dissatisfied customers can opt out, opt to locate in neighboring communities and vote policy makers out of office. This healthy competition does much to stimulate innovation and drives CCAs to maximize benefits for their customers.
- As Ms. Hale from CleanPowerSF explained during the en banc, CCAs have access to low cost municipal financing and do not need to earn returns for their shareholders. IOUs in contrast make significant rates of return without shouldering commensurate financial risk since the regulatory system provides assurance of cost recovery and profits.
- As discussed above, CCA decision makers are elected officials directly accountable to CCA customers, their constituents.

Reliability:

- With respect to reliability, California is facing important challenges that arise from its dramatic success in significantly increasing the penetration of renewable resources. Because California is so far ahead of much of the rest of the nation, the State is among the first systems that must address the challenges of integrating a large proportion of intermittent renewable resources. The State will have to develop a thoughtful approach to the existing natural gas fleet to ensure that reliability can be maintained while other technological solutions to balancing renewables emerge. CCAs are not responsible for creating this challenge but look forward to being a constructive part of the solution.
- The difficulties occasioned by the rapid growth of renewables are exacerbated by the State's delay in developing a liquid, transparent and adequately long-term market for capacity. Instead, the State has relied on single year RA requirements, long-term planning exercises, and short term backstop mechanisms by the CAISO. While this combination has maintained reliability, it could be substantially improved.
- The problem of generator locational market power remains a factor that needs to be considered and addressed. This problem has been a central responsibility of the CAISO, and must be considered and addressed as the State works towards developing an effective longer term market for capacity.
- In its RA proceeding (R17-09-020), the CPUC recently issued a decision providing for a longer-term RA requirement and seeking proposals for a single buyer capacity market. CCAs are generally supportive of a longer term RA requirement. CalCCA is preparing testimony addressing a single buyer capacity market. Certainly, any single buyer capacity market must be impartial and cannot unfairly benefit the IOUs.
- Questions during the en banc suggested that CCAs do not have the financial capacity to support long term contracts but this is not true. Using diverse standard commercial

arrangements, including letters of credit, lock-box arrangements, and most recently in the case of Marin Clean Energy, an investment grade credit rating, CCAs have entered into extensive long-term contracts.

- Commissioner McAllister appropriately signaled the importance of further development of demand response programs in the State. Demand response is increasingly important as a tool to moderate costs, complement renewable resources, and maintain reliability.

Decarbonization:

- Many communities have adopted CCAs in order to meet their sustainability requirements and goals. CCAs collectively have raised the bar in terms of progress towards meeting the State's GHG reduction goals.
- CCAs have supported over \$2.5 billion in construction of California renewables with a majority being built with project labor agreements. As of January 2018, the initial five operating CCAs had contracted with over 1,136 MW of renewable resources, and newer CCAs are engaged in procurement activities that will add significantly to these figures.⁸
- CCA procurement to date coupled with their goals for the future will supply enough GHG free resources to allow for closure of Diablo Canyon without an increase in GHG emissions.⁹
- CCAs which must accomplish their sustainability objectives without stranded cost protection and must seek strategies that provide the best bang for the buck for their communities.
- CCAs do not, as Commissioner McAllister suggested, have an incentive to maximize sales in the absence of decoupling.
 - First and foremost, CCAs are local governments charged with achieving the goals of their communities. Energy efficiency promotes community sustainability goals and benefits individual customers.
 - CCAs may revise their rates in accordance with local rate setting requirements, and are not subject to CPUC general rate case schedules or requirements that would delay any adjustments needed to address unplanned for energy savings.
- San José is a good example of a local community that intends to use its CCA to help achieve ambitious sustainability goals. SJCE's activities will be measured by San José's policy makers against San José's Climate Smart goals. Recently, San José City Council adopted criteria for SJCE's Integrated Resource Plan that incorporated key requirements of Climate Smart San Jose.
- At the en banc, the Utility Reform Network suggested that only new renewable resources truly advance decarbonization, and entities have stated or implied that CCA clean energy actions are not resulting in real GHG reductions. However,
 - As stated above, CCAs have made commitments to bring online substantial new renewable projects.

⁸ May 9, 2018, letter from CalCCA to the Office of Governor Edmund G. Brown.

⁹ May 26, 2017, Opening Brief of the City and County of San Francisco, at 11-14, CPUC Docket A.16-08-006.

- CCA aggressive demand for GHG-free and RPS energy are driving demand for these resources and stimulating extensive developer interest in developing projects.
- California's success in stimulating the installation of renewable resources may require a more thoughtful approach. Siting additional renewables in areas that are largely saturated may result in displacement of GHG free generation with new GHG free generation. Conversely, stimulating the development of renewables where they may offset resources that emit large volumes of GHG and other pollutants may provide greater overall benefits.

Equity:

- San José is a highly diverse community. A central message of Climate Smart San José is that San José aims to make a good life accessible to all its residents.
- CCAs are looking to source resources and put into place programs in a manner that delivers local benefits including job creation.
- CCAs are working constructively with labor organizations. As noted above, the majority of new or repowered California renewables supported by CCAs are being built with project labor agreements.¹⁰ CCAs have also developed workforce development and training programs as detailed in CalCCAs June 11 comments on the draft GreenBook.¹¹

CCAs are thus the State's important partners in achieving the goals of affordability, reliability, decarbonization, and equity. As the State assesses whether, when and how additional competition should be introduced, the State should ensure that such competition maintains the momentum that CCAs have created. Moreover, to foster further development of effective CCAs, ongoing CPUC action and vigilance is needed.

- Transparency. CCAs are local governments and must have time to vet their activities publicly, and to obtain input and approval from their governing bodies for all key operations. Tight CPUC timelines undermine this transparency and disadvantage CCAs. For example, the CPUC's important ruling on the Clean Net Short mechanism for Integrated Resource Plans only came out on May 25 for plans due August 1. Given that many local governing bodies are not in session during July, this timing complicated CCA governing bodies' review of IRPs.
- Non-discriminatory distribution and fair competition. The IOUs have opportunities to disadvantage CCAs in how they price and deliver services. The CPUC must be vigilant to ensure that IOU monopoly products such as distribution are not used to subsidize competitive products such as supply. The CPUC must also ensure that IOUs offer fair and nondiscriminatory distribution service, that they promptly and even handedly facilitate interconnection to the distribution system, and that they afford all market participants including CCAs a fair and nondiscriminatory opportunity to put into place projects that

¹⁰ May 9, 2018, letter from CalCCA to the Office of Governor Edmund G. Brown.

¹¹ June 11, 2018, CalCCA comments on the California Consumer Choice Project Workshop at 9-10.

improve distribution system operation and reduce or eliminate distribution system constraints.

- Provider of Last Resort (POLR). CCAs have been growing dramatically and must offer service to all their residential customers who do not opt out. Nonetheless, IOUs retain the obligation and stranded cost recovery protection to make electric service available to all customers and the CPUC continues to look to the IOUs to backstop system reliability through the CAM. Particularly in light of the magnitude of load that has already migrated to CCAs, it is important to consider whether the current approach is appropriate and sustainable.